

EXHIBIT “E”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARLENE TALARICO, individually and on
behalf of a class of all others similarly
situated,

Plaintiffs,

-against- 18-CV-909 (JPO)

THE PORT AUTHORITY OF NEW YORK AND NEW
JERSEY,

Defendant.

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October 19, 2020
3:00 P.M.

Videoconference deposition of the
Defendant, PASCALE KERLEGRAND, M.D., taken
by the Plaintiffs, pursuant to a court
order, reported remotely by Sharon Tal, a
Shorthand Reporter and Notary Public of the
State of New York.

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A. I don't have my notes with me so this is from memory, but she had swelling, if I'm not mistaken, she had redness and there was sign of an injury, what I would call a sprain.

Q. And did you take notes during this examination?

A. I did.

Q. Do you have a copy of those notes?

A. I do not.

Q. Is there anyone who would have a copy of those notes?

A. They should be in her medical record.

Q. With whom is that medical record being held --

A. With Port Authority Medical Division. It should be part of her electronic medical record as well.

Q. Did you determine a course of treatment, if any, to deal with the swelling of the hand?

A. I first asked that X-rays be

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whether the employee is medically able to perform duties or not.

Q. On the day of August 4th did you have any hand in conducting a medical status evaluation of Ms. Talarico?

A. I believe that's part of the examination that I performed.

Q. And did you help draw a conclusion on her medical fitness to perform her work on that day?

A. I did.

Q. Did anyone else help you formulate that position on that day?

A. No.

Q. What was the conclusion you reached about her ability to perform her work --

A. I --

Q. -- status evaluation?

A. Well, medically, given her job title, she could still probably work with the hand like that, but if I remember correctly, I think I might have kept her out of work, I'm not sure.

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Q. Do you recall why you kept her out of work?

A. I know I wanted her to be evaluated by the hand surgeon. I don't remember when the appointment with the hand surgeon was for. I believe it was the following day but I'm not sure. I think I wanted her to be evaluated to ensure that there were no more serious injuries than what my exam revealed and then we would do her work determination. I'm not sure.

Q. Did you do any follow up evaluations of Ms. Talarico after August 4, 2016?

MS. GRODENTZIK: Do you mean with respect to the hand?

MR. SOTO: I'll narrow it down.

Q. With respect to the hand?

A. No.

Q. Did you do any sort of follow-up medical status evaluation with Ms. Talarico after August 4, 2016?

A. No.

Q. Changing gears a bit.

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2 Are you aware of any policies or
3 procedures at the Port Authority
4 surrounding the use of video surveillance
5 equipment at the Office of Medical Services
6 at 233 Park Avenue South?

7 MS. GRODENTZIK: Objection.

8 You can answer, if you know.

9 A. I did not know.

10 Q. My question right now is on
11 policy and procedure. Are you aware of any
12 policy and procedure surrounding the use of
13 the security camera at 233 Park Avenue
14 South?

15 A. Now?

16 Q. At the time of August 4, 2016?

17 A. No, I did not.

18 Q. Were you aware that this
19 examination that you were conducting of Ms.
20 Talarico was being recorded on a video
21 camera?

22 A. I was not aware.

23 Q. When did you become aware that
24 your examination of Ms. Talarico on August
25 4, 2016 had been recorded on a video

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camera?

A. I don't remember the exact date but I have it in my notes, but I would have to check. It was some time -- I would have to check. I think early 2017 I became aware -- in March 2017.

Q. How did you become aware that that evaluation had been recorded?

A. Dr. Fischer indicated it to me. I was examining an employee in another room and he came to me and said that I need to report to Robin Martin's office immediately. When I got to Robin's office Robin Martin told me to sit at her computer desk and review something on the computer. And when they turned the computer on, I believe it was either Dr. Fischer or Robin Martin started the computer feed, it showed Charlene Talarico's examination.

Q. What was your reaction when you learned that that examination had been video taped?

A. Extreme shock, distress, outrage.

Q. And why did you feel shock,

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distress, and outrage?

A. I immediately said: This was recorded? Where is the camera? Why was this recorded?

And then Robin answered: You just need to narrate your exam for that day.

Q. When she said you just need to narrate what happened that day, was that for her for anybody in particular?

A. I asked Robin can you explain why I need to narrate this, why do I need to narrate the video feed?

Q. What did she say?

A. She said that Charlene Talarico is claiming that she was not examined by a physician on August 4, 2016. So would I mind going through the video feed to explain each of my actions throughout the video.

Q. Did she say what venue you would be explaining your actions in?

A. As the video feed continued, Robin told me to say what am I doing at

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each point in the video.

Q. So you were narrating to her what you were doing in the video?

A. There were other people in Robin's office.

Q. Do you recall who those individuals were aside from Robin Martin and Dr. Fischer?

A. Paulette Counts was there and Detective Gaunt, G-A-U-N-T.

Q. Just to go back a bit. Who is Dr. Fischer?

A. Dr. Fischer is the chief medical officer of Port Authority, I believe, that was his title at the time.

Q. And who is Paulette Counts?

A. Paulette Counts, I don't know what her official title was. I think it was operational supervisor but I'm not sure.

Q. Do you recall who Detective Gaunt was?

A. Gaunt, he was a detective with the Port Authority Police.

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think it was satisfactory.

BY MR. SOTO:

Q. What was the nature of the response?

A. The response was that the camera must have been there from the time the medical department had taken over that space I believe back in 20 -- 2003. The camera might have been put there to make sure no one was stealing medications from the medication cabinet.

Q. Why did you deem that response unsatisfactory?

A. I explained to Dr. Fischer that we don't keep medications in that cabinet that's in view of the camera so why is the camera still there.

Q. When you pointed that out did you receive any sort of a response?

A. Yes, I did.

Q. What was the response?

A. The response was, well, we moved in after 9/11. It might be that we were keeping medications in that cabinet at that

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these possible other cameras, did he indicate to you what protocol there would be in terms of keeping you abreast of when you were actually being videotaped, conducting examinations?

A. Well, the information wasn't given to me all at once. If I remember correctly, he had to contact the building maintenance supervisor for each facility. And as he got a response from each of those supervisors, he would then inform me.

So he emailed me, I believe, a floor plan for 233 Park Avenue South that showed where cameras used to be and where there was only this one existing. And I think by that time it was no longer there.

And then at a later date, I got an email that showed a picture of a hallway at the Tech Center of a common hallway. The Tech Center. Port Authority Tech Center is the complete name.

Q. Do you still have copies of those emails?

A. I don't have -- I would have to

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2 -- I have notes that I took at the time and
3 it took me a long time to find them because
4 they're in my Port Authority papers. I
5 finally found the notes that I took.

6 Q. Those notes that you took, when
7 did you take those notes?

8 A. I started taking the notes the
9 day of February 2017.

10 MR. SOTO: I ask for supplemental
11 production of Dr. Kerlegrand's notes.

12 I'll put it in writing.

13 BY MR. SOTO:

14 Q. So this is information you're
15 discussing you got from Dr. Fischer about
16 locations of cameras, but did he ever give
17 you any indication on, moving forward, how
18 the Port Authority might keep you abreast
19 of when the cameras were actually turned on
20 while you were conducting evaluations?

21 MS. GRODENTZIK: Objection.

22 Assumes facts not established or known,
23 but you can answer if you can.

24 A. I actually don't understand the
25 question.

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BY MR. SOTO:

Q. You indicated before that you were outraged that this examination had been filmed without your consent. Did Dr. Fischer or anyone else at the Port Authority ever tell you about, moving forward, how would they address that outrage and keep you informed when and if medical examinations were being filmed?

MS. GRODENTZIK: Same objection.

You can answer if you can.

A. Well, I remember at one point, I'm not sure during the time it was, Dr. Fischer did tell me that there are no video cameras that are in patients' rooms.

BY MR. SOTO:

Q. Do you recall when exactly he told you that?

A. I don't know for sure but I know we did have that conversation. I was actually covering for Dr. Whiteley at Journal Square Medical Center, and Dr. Fischer called me and told me that he investigated with each of the building

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maintenance people at each facility, and there are no cameras there in the examination rooms.

Q. After you learned that this examination of Mr. Talarico had been videotaped, aside from Ms. Martin and Dr. Fischer, did you discuss this with any colleagues at Office of Medical Services?

A. I discussed this with at least two other people.

Q. Who are these other people?

A. One was Mary Burke, the nurse who was in the exam room with me on August 4th.

Q. And do you recall who the other individual was?

A. Loretta Platero. She was the nurse supervisor.

Q. What was Nurse Burke's reaction?

A. Surprise. She's actually in the video as well. She was surprised.

Q. What was Nurse Platero's reaction?

A. She was surprised because part of that room is her office. So the nurse

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supervisor's office is within that space.
There's a curtain that separates the nurse
supervisor's desk from the rest of the
emergency room.

MR. SOTO: I don't think I have
any other questions at this point.

Do you have any questions,
Lauren?

MS. GRODENTZIK: I don't have any
questions.

MR. SOTO: So I think we're done.

COURT REPORTER: Are you ordering
the original and one of this
transcript?

MR. SOTO: Yes.

(Time noted: 4:05 p.m.)